

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FELICIA CROSS,

Plaintiff,

v.

SEATTLE CANCER CARE ALLIANCE/  
FRED HUTCHINSON CANCER RESEARCH  
CENTER, a Washington nonprofit corporation,

Defendant.

No.

PLAINTIFF'S COMPLAINT

(JURY TRIAL DEMANDED)

**COMPLAINT**

1. Plaintiff, *Felicia Cross*, brings these causes of action against Defendant, *Seattle Cancer Care Alliance/ Fred Hutchinson Cancer Research Center*, under 31U.S.C. 3729, et seq., the False Claims Act, for unlawfully and intentionally retaliating against *Cross*, in violation of the anti-retaliation provisions, of the False Claims Act, 31 U.S.C. 3730(h). *Cross* engaged in investigation and information gathering, about possible Medicare fraud (a protected activity under the FCA), and the Defendant, with knowledge of such conduct, retaliated, by

1 wrongfully terminating *Cross*' employment, because she engaged in such activity.

## 2 INTRODUCTION

3 2. This is a civil action to recover damages, in excess of **\$75,000**, plus all applicable civil  
4 penalties and other relief from Defendant, for unlawfully and intentionally retaliating against  
5 **Cross**, in violation of the anti-retaliation provisions of the False Claims Act, 31U.S.C.3730(h).

## 6 JURISDICTION AND VENUE

7 3. This Court has jurisdiction, under the Federal False Claims Act, 31U.S.C. 3732.

8 4. The claims in the proposed action arise from the Defendant's participation in the  
9 Medicare Insurance Program, in **Seattle**, Washington, and therefore under the applicable  
10 statutes and court rules, venue is proper in the Western District of Washington, at **Seattle**.

## 11 PARTIES

12 5. *Felicia Cross* is a Plaintiff, under 31U.S.C. 3730(b)(1).

13 6. Defendant, **Seattle Cancer Care Alliance ("SCCA")** is a Washington nonprofit  
14 corporation, with its principal offices located in **Seattle**, Washington.

15 7. Whenever reference is made, in this Complaint, to any representation, act, or  
16 transaction of the Defendant herein, such allegation shall be deemed to mean that the  
17 principals, officers, directors, employees, agents, or representatives, while actively engaged in  
18 the course and scope of their employment, did authorize such acts or transactions on behalf of  
19 the Defendant. The Defendant is referred to hereinafter as "**SCCA**."

## 20 FACTS

21 8. **Felicia Cross**, worked for 13 ½ years at the University of Washington Medical Center,  
22 as the Lead Pharmacy Billing Specialist. She was recruited to SCCA, by UWMC senior  
23

1 management, on December 1, 2000, with full seniority, to lead the pharmacy-billing  
2 department, at the grand opening of SCCA. On October 1, 2007, she was promoted to SCCA  
3 Integrity/Compliance, to implement a newly created Clinical Research Billing Compliance  
4 Analyst position. She has worked in the field for over 33 years, with 26 of those years working  
5 for the SCCA, based on seniority. SCCA implemented EPIC Medical Electronic Medical  
6 Records and billing system, on August 1, 2010.

7  
8 9. Cross started working at the newly opened SCCA, one month before the grand opening.  
9 No one had worked in either the Pharmacy or Research Billing positions, prior to Cross filling  
10 both positions. Her job was to work closely with research physicians and study staff, to perform  
11 compliant research billing audits. During the early years, she made good progress reducing  
12 compliance risk and implementing compliant procedures and policies, for clinical research.

13 10. The Corporate Compliance Officer (Phuong Dao), reviewed and approved audit plans,  
14 results and audit reports, prepared by Cross, from 10/2007- 10/2010, until the new Compliance  
15 Manager, was hired, on 7/1/2010, and was trained and prepared to review the audit reviews.  
16 On or about October 31, 2012, Dao left SCCA. Thereafter, it was Cross' job to report all audit  
17 findings to the Compliance Manager. Problems sometimes occur in research billing audits,  
18 because of missing, inaccurate required Institutional Review Board (IRB) approved study  
19 budgets for grant, or government funded clinical research studies, billing plans/contracts, and  
20 signed patient Informed Consents forms. Problems with Epic software/claim format, set-up  
21 problems preventing study participants (patients or insurance) from being billed and charged  
22 for services contracted and billable to the study sponsor, to be paid by the study budget/grant.  
23 When such problems arose, Cross would consult with the Compliance Manger, throughout the  
24 audit process, and she would prepare and distribute a final audit report, to the physician and  
25  
26

1 the study staff. Cross provided the study staff with details of billing errors and  
2 recommendations on reconciliations. Also, recommendations were provided on documentation  
3 and compliance requirements for study budgets/ plans and study set up information.

4 11. In addition, it was Cross' job to work closely with patient financial services, to ensure  
5 proper claims reversals and credits were applied to patient accounts/insurance. She provided  
6 study staff with detailed reports of audit findings and recommendations for corrective actions.  
7 Cross would conduct a follow up audit, to ensure audit findings were addressed and corrected.  
8

9 12. Between October 2007 and October 2013, Cross investigated and produced more than  
10 50 audits. Ms. Pranzini reviewed, accepted, approved, and signed (approx.) six research billing  
11 audit reports, between October 2010 and October 2013, prepared by Cross. In February 2013,  
12 Compliance Manger, Traci Pranzini, became SCCA's Corporate Compliance Officer.

13 13. Between April 2012 and December 2012, Cross worked closely with Dr. John Pagel  
14 and other staff members, on a research study entitled "Trubion 016; Protocol #FH-2441." The  
15 sponsor for the study was Emergent. This was one of many studies that patients were assigned.  
16

17 14. In April 2012, Cross began investigating a patient initiated inquiry about charges billed  
18 to the patient's account and/or insurance and that were submitted to Medicare. The patient  
19 inquired about copays & deductibles that he was being charged, for services that were provided  
20 as a part his/her study. Research Coordinator Lori Jarrett, contacted Revenue Cycle Billing,  
21 Patient Finance Supervisor, and Kris Pedersen about the patient's billing concerns.

22 15. On April 18, 2012, Kris Pedersen contacted, Compliance Manager, Traci Pranzini to  
23 request an audit on patient's study account. Ms. Pranzini forwarded the inquiry to Ms. Cross  
24 for initial review of the patient's account and research billable charges.  
25

26 16. On April 20, 2012, Ms. Cross e-mailed Compliance Manager, Pranzini with an initial

1 review of the research billable charges, posted to the patient's account. Cross uncovered so  
2 many documentation errors that needed to be addressed and/or clarified, before she could  
3 research the actual billing discrepancies. At this time, Ms. Cross was very concerned that  
4 fraudulent conduct may had occurred. (The actual audit did not close until 12/8/2012).

5 17. During her investigation, Ms. Cross uncovered the following. First, the patient was  
6 being treated and billed for study protocol #FH2441. However, the patient had not signed  
7 consent to participate in this study. On January 12, 2012, the patient signed consent to  
8 participate in study #FH 2431; (not #2441) Dr. Pagel's documentation does not indicate the  
9 patient is on the study # that he consented to participate in. On 1/13/12, the patient was charged  
10 for a (protocol #2441 research billable) Bone Marrow Procedure. The patient was charged for  
11 this procedure only because his documentation did not indicate the correct study budget  
12 information. Therefore, the patient was charged for the procedures, as well as the study  
13 sponsor, in the budget, who paid for the procedures. Furthermore, the patient was also billed  
14 for CT Scans that should had been billable and paid by the study budget.  
15

16 18. Again, after uncovering these facts, Ms. Cross formed the belief that medical fraud may  
17 have occurred and/or was on going. In fact, due to the severity of her findings, Cross was  
18 instructed by Pranzini to review the study accounts of the other four participant on Dr. Pagel's  
19 study. Cross uncovered serious discrepancies on all patients being "treated" in study (# 2441).  
20 Two of the five participants did not have signed consents, in their paper chart medical record,  
21 acknowledging participation in Dr. Pagel's study.  
22

23 19. A second patient's account, reviewed by Ms. Cross, revealed that the patient did not  
24 sign a consent form to participate in ANY study, including Protocol #2441. However,  
25 according to Dr. Pagel's clinic notes, the patient was participating in #2441. In fact, Dr. Pagel  
26

1 references three separate studies in the patient's legal medical record as being treated on these  
2 three studies, with an additional reference to a fourth study. Based on her investigation, Ms.  
3 Cross identified Research Billing fraud, Medicare fraud, Human Protection fraud,  
4 Documentation fraud, and Double Billing fraud.

5 20. Ms. Cross immediately provided all of this information to Pranzini and she informed  
6 her that she was concerned that Medicare fraud had occurred. Moreover, Dr. Pagel confirmed  
7 Ms. Cross' reasonable belief that SCCA may have been systematically committing fraud, when  
8 she was told by Dr. Pagel, on or about April 25<sup>th</sup>, 2012, that he was aware of the erroneous  
9 research billing practices and non-compliant documentation. Surprisingly, the audit didn't  
10 close until Dec. 2012.  
11

12 21. On May 14, 2012, Cross completed and submitted an audit report, to Pranzini, detailing  
13 the information noted above, in addition to four other study participants. Fred Hutchinson,  
14 Legal Counsel Gerianne Sands, was brought into the investigation, to minimize the impact of  
15 the non-compliant documentation implications for Dr. Pagel's study documentation and the  
16 Medicare fraud concerns.  
17

18 22. From May 14, 2012 – July 27, 2012, Pranzini teamed with Revenue Cycle Compliance  
19 manger, Eve Peabody, to re-write Cross' original audit report, without Cross' input. Cross  
20 became aware of the rewrite, when Peabody asked Ms. Cross questions about her original audit  
21 report, that were out of Ms. Peabody's job scope. It was then that Ms. Cross believed that  
22 Pranzini was attempting to cover up Medicare fraud, by rewriting Cross' original report, before  
23 distribution.  
24

25 23. Thus, Pranzini distributed a "revised" audit report to study #2441 Trubion 016 to the  
26 stakeholders, on July 24, 2012. She did not include Compliance Officer Phuong Dao in the

1 “revised” audit report, nor did she make any reference to the work Ms. Cross had investigated  
2 for the “original” audit.

3 24. On July, 31, 2012, Dr. Pagel called Ms. Cross, in a fit of rage, regarding the audit report  
4 that Pranzini sent out. He called back with Kathleen Shannon-Dorcy on the phone. Dr. Pagel  
5 stated that the audit department had no authority to suggest that there were errors associated  
6 with his study and that, in thirteen years, no had ever looked at his documentation. Nonetheless,  
7 Dr. Pagel acknowledged many of the audit findings, including, but not limited to the fact that  
8 over \$46,000.00 in research billable line items needed to be reimbursed.  
9

10 25. On or about September 2, 2012 Pranzini and Cross finally met to discuss the next steps,  
11 regarding the audit. However, Pranzini appeared unconcerned with Ms. Cross’ original  
12 findings and deemed the audit closed. This did not sit well with Ms. Cross.

13 26. Finally, after several attempts, on December 8, 2012, Ms. Cross met with CEO, Norm  
14 Hubbard, to discuss the findings associated with Dr. Pagel’s audit and to discuss her concerns  
15 about Pranzini’s lack of attention, to the seriousness of the documentation findings of the audit.  
16 Cross directly communicated to CEO, Norm Hubbard that SSCA had committed Medicare  
17 fraud, concerning Dr. Pagel’s patient and that because of how the study was set up from the  
18 beginning, all participants may have been double billed and/or billed fraudulently.  
19

20 27. Also, she informed Mr. Hubbard that she was concerned that the seriousness of Dr.  
21 Pagel’s fraudulent documentation was being overlooked and not reported to the proper clinical  
22 research sponsors or government agencies (OIG, IRB). Cross discussed the discrepancies in  
23 the documentation, concerning treatment, study protocol information in the legal medical  
24 records and multiple research related procedures, billed to the patient and billed and paid by  
25 the study budget, sponsor that were never properly addressed, reported and/or reconciled.  
26

1 28. Furthermore, Dr. Pagel wasn't offered or required to participate in any additional  
2 documentation training, or consequences, for not adhering to the research billing and  
3 documentation guidelines. Dr. Pagel was allowed to continue with the questionable research  
4 results, in order to validate the government funding for the Trubion- 016 study. This was done  
5 without signed informed consent forms, from "participating" study participants. This resulted  
6 in double billing to the patients and the study budget agreement, and serious lack of  
7 documentation, to support the results of the study.  
8

9 29. After not receiving any follow up response from CEO Hubbard nor Ms. Pranzini,  
10 Cross' concerns regarding Medical fraud intensified. She was convinced that SCCA and Dr.  
11 Pagel conducted unsupported research studies, double billed patients for services and  
12 procedures budgeted and paid by the study agreement, and that their conduct violated many of  
13 the governments required research auditing, documentation and billing requirements.  
14 Furthermore, Ms. Cross was concerned that unsupported research findings invalidated the  
15 actual study findings for FDA approval of the study drug; promoted the patient to maximum  
16 allowable insurance benefits, co-pays, co-insurance, out of pocket cost and collections for  
17 services and procedures billable to the study.  
18

19 30. Moreover, Cross' Medicare fraud concerns were confirmed, in the following months,  
20 when she was removed or not included in her regular daily job functions. She was inexplicably  
21 required to directly report to Eve Peabody, instead of Pranzini. This was most peculiar because  
22 Peabody had no research auditing training or experience. In addition, her work environment  
23 and relationship with Ms. Pranzini began to turn. Ms. Cross believes that Ms. Pranzini was  
24 retaliating against her for going above her head and talking to CEO Hubbard.  
25

26 31. In January 2013, Ms. Cross had another conversation with CEO Hubbard. Rather than



1 explaining how Cross' identified concerns, regarding the audit, were corrected, Mr. Hubbard  
2 asked Ms. Cross "if she stood behind her findings." Ms. Cross said "yes" and Mr. Hubbard  
3 responded: "that's all I need to know." Shortly thereafter, Ms. Cross was required to  
4 unofficially report to Eve Peabody, on all future audit findings. In June 2013, Ms. Cross was  
5 officially instructed by Pranzini to start reporting only to Ms. Peabody and Ms. Cross was  
6 excluded from all audit discussions.

7  
8 32. Pranzini and SCCA's retaliatory conduct ultimately required Ms. Cross to seek medical  
9 treatment and to take time off from work. Only after several months off of work did Ms. Cross  
10 medical providers clear her to return to work.

11 33. Finally, on October 1, 2013, after Peabody had walked pass Cross' desk, for over 2  
12 weeks, without acknowledging her, at all, Ms. Cross was asked to meet with her after work.  
13 When Ms. Cross showed up for the meeting, Ms. Peabody was accompanied by Human  
14 Resources Representative Jon Flowers, whom Ms. Cross had conferred with, over the past  
15 year, concerning the Pagel audit and the change in her work environment since the audit  
16 findings had been reported.

17  
18 34. At this meeting, Peabody informed Cross that "the decision had been made to terminate  
19 her, effective immediately", When Cross asked for the reason, Peabody stated "Washington is  
20 an at-will state, and she did not have to give her a reason." Simultaneously, HR Rep. Flowers,  
21 slid a red folder across the table and advised Cross to read and sign the document enclosed.

22  
23 35. At the meeting, Mr. Flowers also informed Ms. Cross that because of "how valued she  
24 was to the organization that all senior administrations had to sign off on the termination" and  
25 they offered her approximately \$43,000.00 to resign. Ms. Cross was instructed that if she  
26 signed the separation letter, then her unemployment would be granted. Mr. Cross did not sign

1 the document.

2 36. Ms. Cross believes that SCCA's actions were in violation of their "Open door, no  
3 retaliation" compliance policy. Ms. Cross, on information and belief, believes that her  
4 investigation uncovered SCCA practices that promoted non-compliance of research studies  
5 and physician's practices and SCCA failed to educate or report documentation and/or breeched  
6 it study sponsor's grants/budgets and/or agreements, per OIG, IRB and government  
7 requirements. Ms. Cross believes that this is a practice that began many years ago and has  
8 affected the outcome of several documented audits. If so, then Medicare has been falsely up  
9 charged for many years. A fact that an internal investigation by SCCA would have revealed.  
10 Moreover, on information and belief,  
11

12 37. Thus, on October 1, 2013, as a direct result of Cross' investigation, she was terminated,  
13 after 26yrs of loyal, dedicated service, and the implementation of two departments, (Pharmacy  
14 and Compliance), at SCCA. Cross documented and reported all of the findings of the audit  
15 investigation, according to compliance guidelines and the way former Compliance Officer Dao  
16 had trained and instructed her to, prior to his departure and before Pranzini was employed at  
17 SCCA and promoted from Compliance Manager to Compliance Officer. Accordingly, Cross  
18 believes she was fired for exposing Medicare fraud and non-compliance results, of the clinical  
19 research study, conducted by Dr. Pagel.  
20

21 38. Cross believes she was fired without explanation, and denied any access to the results  
22 of the audit investigation, in order to wall her off from hard information about the nature and  
23 extent of the false billing and to keep her silent. At the time of her termination, SCCA tried to  
24 buy her silence. She was presented with a draft settlement agreement, which provided that, in  
25 return for SCCA paying her \$43,000.00, Cross would give SCCA a full release of all claims;  
26

1 promise to keep confidential any information she had about SCCA (including its billing  
 2 practices, policies, and procedures). In addition, SCCA would agree to not oppose  
 3 unemployment compensation, even though the settlement called for her to “mutually separate.”  
 4 In short, Ms. Cross believes the proposed Settlement Agreement was an attempt to silence her,  
 5 regarding her knowledge of SCCA’s Medicare fraud and she believes the offer was an  
 6 admission that they had something very serious to hide.

### 7 **THE ACTIONABLE CONDUCT OF THE DEFENDANTS**

8  
 9 39. For a period of more than thirteen years, prior to April, 2012, Defendant acted  
 10 knowingly, or in reckless disregard or in deliberate ignorance of the truth, in presenting or  
 11 causing to be presented to the United States false claims, for payment of Medicare  
 12 reimbursements, referenced above, for payment or approval, in violation of 31 U.S.C. 3729, et  
 13 seq., the False Claims Act.

14  
 15 40. When Ms. Cross’ investigation exposed SCCA’s fraudulent conduct and procedures  
 16 and she refused to capitulate, SCCA, with explicit notice of Cross investigative efforts,  
 17 retaliated against her, by systematically excluding her from performing her job duties and  
 18 eventually terminating her employment.

### 19 **CAUSES OF ACTION: COUNT I RETALIATION**

20  
 21 41. Plaintiff alleges and incorporates by reference paragraphs 1 through 39, above, as  
 22 though set forth fully herein.

23  
 24 42. Through investigation and fact gathering, Cross formed a good faith belief that SCCA  
 25 may have been committing Medicare fraud and she reported this information to her  
 26 supervisors. Cross’ belief was a belief that an employee in the same or similar circumstance  
 would have held. In retaliation for her investigative conduct and for refusing to dismiss her

1 findings, the Defendant systematically removed Ms. Cross from her audit and shielded her  
2 from fraudulent clinical study procedures and policies, which allowed for up charging claims  
3 for Medicare reimbursement, in such a way that it would defraud the United States.

4 43. By this conduct, the Defendant retaliated against Cross and wrongfully terminated her,  
5 in violation of their own policies, Washington and Federal law, and the anti-retaliation  
6 provisions of the False Claims Act, 31 U.S.C. 3730(h). As a result of Defendant's conduct,  
7 Plaintiff has been damaged, in an amount to be proven, at the time of trial.  
8

9 **COUNT II WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

10 44. Plaintiff alleges and incorporates by reference paragraphs 1 through 43, above, as  
11 though set forth fully herein.

12 45. By this conduct, the Defendant retaliated against Cross and wrongfully terminated her  
13 in violation of the public policies mandated in both Washington and Federal laws to protect  
14 whistleblowers. As a result of Defendant's conduct, Plaintiff has been damaged, in amount to  
15 be proven, at the time of trial.  
16

17 **COUNT III UNPAID WAGES AND WILLFULLY WITHHELD WAGES**  
18 **(RCW CHAPTERS 49.48 AND 49.52)**

19 46. Plaintiff incorporates all prior allegations made in this Complaint. By wrongfully  
20 terminating Cross, Defendant willfully and with intent withheld wages from Plaintiff that it  
21 was obligated to pay. Defendant violated Washington's wage and hour laws, RCW Chapters  
22 49.48 and 49.52. Pursuant to 49.52.70, Defendant owes Plaintiff double damages and  
23 Defendant is responsible for attorney fees and costs.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff demands that judgment be entered in favor of the Plaintiff and  
26

1 against the Defendant as follows:

2 47. Plaintiff demands damages in an amount to be proven at the time of trial, including  
3 reinstatement, with the same seniority status that Cross would have had, but for the retaliation  
4 (or front pay in the alternative), two times the amount of back pay, interest on the back pay,  
5 and compensation for any special damages sustained, as a result of the retaliation, including  
6 litigation costs and reasonable attorneys' fees, plus pre-judgment interest, at the highest rate,  
7 allowed by law. Further, the Plaintiff demands such other and further relief, as the Court deems  
8 just and equitable.  
9

10 **DEMAND FOR JURY TRIAL**

11 48. Pursuant to Rule 38, of the Federal Rules of Civil Procedure, the Plaintiff demands trial  
12 by jury, in this action, of all issues so triable.

13 RESPECTFULLY SUBMITTED this 29th day of May, 2016.  
14

15 **FULTON LAW PLLC**

16  
17 By:       /s/ Robert Fulton        
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